

VIETNAMESE AFFAIRS STAFF

OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

Approved For Release 2005/08/12 : CIA-RDP80R01720R000700100027-1

DATE: 20 Sept 72

TO: Col. Richard T. Kennedy
NSC Staff

FROM: GACarver, Jr.

SUBJECT: Presidential Succession

REMARKS:

Per our 15 September conversation, before one attempts to speculate on the possibilities it is useful to know the facts pertinent to the matter at issue. Attached is a blind memorandum outlining the current legal situation.

George A. Carver, Jr.
Special Assistant for Vietnamese Affairs

Attachment

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MEMORANDUM

SUBJECT: Presidential Succession

1. According to Article 56 of the South Vietnamese Constitution, if the President dies or is otherwise removed from office, the Vice President replaces him: for three months in order to organize fresh elections, if the succession takes place within the first three years of the Presidential term; for the remainder of the normal four-year term, if it takes place after three years. If the Vice President is also dead or for some other reason unavailable, the succession passes to the Chairman of the Senate "for a period not to exceed three months in order to organize a new election. . . ." In the Senate Chairman's case the three-month limitation, appears to be absolute, as no distinction is made as to whether the succession takes place during the first three years or the last year of the current presidential term.

2. The Constitution is silent as to the next in line after the Senate Chairman. The current Chairman of the Senate is Nguyen Van Huyen. If for any reason he was dead or unavailable if a succession issue arose, the Senate would almost certainly elect another Chairman from its membership, who would then become President for three months. Senator Huynh Van Cao would see himself as designated by divine providence for this role, but a majority of his colleagues would probably disagree and elect a more moderate senator from Huyen's independent group.

3. In practice it seems likely that, in any crisis serious enough to have eliminated the President, Vice President, and Senate Chairman, the Army would take over real power. Probably the generals would, as in the past, set up some sort of military committee of key generals, although quite possibly they would adhere to constitutional forms to the extent of allowing the new Senate Chairman to assume the office of the Presidency. Real power, however, would be in Army hands. Even if only Thieu were eliminated, it seems likely that the rather ineffective Houn, in his role as provisional President, would lean heavily upon the Army for guidance and support.

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